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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,346	12/31/2003	Gil I. Nadel	5760-14700	9474
35690	7590	02/11/2008		
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER HO, BINH VAN	
			ART UNIT 2163	PAPER NUMBER
			MAIL DATE 02/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,346

Applicant(s)

NADEL ET AL.

Examiner

Binh V. Ho

Art Unit

2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/31/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a response to amendment filed 05/09/2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 6-9, 11, 14-17, 19, and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Bossman (US 2003/0182276).

(Claims 1, 9, 17, and 25)

Bossman discloses in figures 1-3, a method for tuning database objects, the method comprising collecting and storing performance data for a plurality of database objects in a database server computer system, wherein each of the plurality of database objects comprises an aggregation of stored data (6); detecting a performance problem in the database server computer system ("determine performance problems with the base access plan as part of a first analysis of the base access plan and the determined performance problems", Abstract, paragraph [0009], [0012]); identifying a problematic database object of the plurality of database objects using the performance data for the

plurality of database objects, wherein the problematic database object is related to the performance problem ("identify common causes of SQL performance problems", paragraph [0008]-[0009], [0028]-[0029], [0034], [0052]); and tuning the problematic database object to improve performance of access to the stored data in the database server computer system ("tune the base access plan to improve performance", Abstract, paragraph [0012], claim 1).

(Claims 3, 11, and 19)

Bossman discloses in figures 1-3, wherein tuning the problematic database object to improve performance of access to the stored data in the database server computer system comprises creating a new access path to the problematic database object ("access path selection by reducing access paths considered to be sub-optimal", paragraph [0034]).

(Claims 7-8, 15-16, and 23-24)

Bossman discloses wherein the performance data comprises a resource contention (paragraph [0009]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 10, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bossman (US 2003/0182276) in view of Ganesh (U.S. 6,192,377).

(Claims 2, 10, and 18)

Bossman discloses substantially all of the elements, wherein tuning the problematic database object to improve performance of access to the stored data in the database server computer system comprises moving the problematic database object from nonvolatile storage to volatile storage for improved speed of access. Ganesh teaches database systems, copies of data items contained in the database are often stored in a volatile memory which requires less time to access than non-volatile memory to improve transaction processing performance (col. 1, lines 33-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to store data in a volatile memory which requires less time to access than non-volatile memory to improve transaction processing performance.

6. Claims 4-6, 12-14, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bossman (US 2003/0182276) in view of Do (U.S. 2004/0172636).

(Claims 4, 12, and 20)

Bossman discloses substantially all of the elements, except wherein tuning the problematic database object to improve performance of access to the stored data in the database server computer system comprises moving the problematic database object

from heavily loaded storage components to less loaded storage components. Do teaches to improve the performance and availability of data access, from a host to remote data storage subsystems for example, the host machine must be able to access remote data storage subsystems through multiple paths thereby increasing the data access (paragraph [0008]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to improve the performance and availability of data, an I/O workload can be spread over multiple active paths by the optimizer, which can eliminate bottlenecks that occur when many I/O operations are directed to a device.

(Claims 5-6, 13-14, and 21-22)

Do discloses in figures 7, wherein the performance data comprises an I/O wait ("the system waits otherwise 714. Then the bus driver sends this I/O request to the function driver 730 via the selected optimum data path", paragraph [0065]).

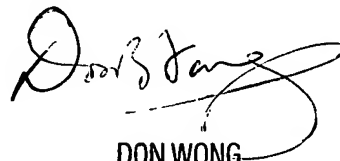
Inquiry

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh V. Ho whose telephone number is 571 272 8583. The examiner can normally be reached on M-F from 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don K. Wong can be reached on 571 272 1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Binh V Ho
Examiner
Art Unit 2163



DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100